

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

DAVID SECHRIST,

Plaintiff,

v.

No. CV 21-00009 CG

ANDREW M. SAUL,  
Commissioner of the  
Social Security Administration,

Defendant.

**ORDER GRANTING UNOPPOSED MOTION TO AWARD ATTORNEY FEES  
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

**THIS MATTER** is before the Court on the Plaintiff David Sechrist's *Unopposed Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, with Memorandum in Support* (the "Motion"), (Doc. 26), filed December 10, 2021. In the Motion, Mr. Sechrist, by his attorney Laura J. Johnson, Esq., indicates that Mr. Sechrist seeks attorney fees in the amount of \$5,356.70. *Id.* at 1. Further, the parties agree that "[p]ayment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to [the Equal Access to Justice Act ("EAJA")] fees in connection with this action[.]" and that "the EAJA award is without prejudice to Plaintiff's attorney's right to seek attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406, subject to the offset provisions of the EAJA." *Id.* The Court, having reviewed the Motion under EAJA, 28 U.S.C. § 2412, and noting that the Motion is unopposed, finds the Motion is well-taken and shall be granted.

**IT IS THEREFORE ORDERED** that Plaintiff be awarded \$5,356.70 in attorney fees pursuant to EAJA, 28 U.S.C. § 2412, made payable to Plaintiff but mailed to

Plaintiff's attorney. *See Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

**IT IS FURTHER ORDERED** that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

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THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE